

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ALPHONSON V. FRAZIER II,

Plaintiff,

vs.

STATE OF NEBRASKA,

Defendant.

**8:21CV186**

**MEMORANDUM AND ORDER**

This matter is before the court on Plaintiff's Motion for Leave to Appeal in Forma Pauperis. (Filing 18.) Plaintiff filed a Notice of Appeal (filing 17) on August 23, 2021. Plaintiff appeals from the court's Memorandum and Order dated July 23, 2021 (filing 16), in which the court denied what it construed as Plaintiff's motion to reconsider under either Rule 59(e) or Rule 60(b) of the Federal Rules of Civil Procedure.<sup>1</sup> The court entered a Memorandum and Order and Judgment on June 25, 2021 (filings 6 & 7), in which the court dismissed this matter without prejudice.

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

(a) Leave to Proceed in Forma Pauperis . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

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<sup>1</sup> On July 13, 2021, the court denied other previous filings by Plaintiff (filings 8, 9, 10, & 11) which the court construed as a motion to reconsider under Rule 59(e) or Rule 60(b). (Filing 12.)

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding . . .

The court finds that because Plaintiff proceeded IFP in the district court, he may now proceed on appeal in forma pauperis without further authorization.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Leave to Appeal in Forma Pauperis (filing 18) is granted.

Dated this 27th day of August, 2021.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge